

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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LAMONTAGNE,

:

USDC SDNY
DOCUMENT
ELECTRONICALLY FILED
DOC #: 1/5/11
DATE FILED: 1/5/11

Plaintiff,

:

ORDER

-v.-

:

PROJECT RUNWAY, et al.,

:

Defendants.

:

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LORETTA A. PRESKA, Chief United States District Judge:

Based on the attached the letter, the parties have agreed to voluntarily dismiss the action. The case is dismissed as to all defendants in its entirety without prejudice.

SO ORDERED.

Dated: New York, New York
January 4, 2011


LORETTA A. PRESKA, Chief U.S.D.J.



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January 4, 2011

By Facsimile

Hon. Loretta A. Preska
 Chief United States District Judge
 Daniel Patrick Moynihan
 United States Courthouse
 500 Pearl Street
 New York, NY 10007-1312

Re: *LaMontagne v. Project Runway, et al., 06 CIV 4934 (LAP)*

Dear Chief Judge Preska:

We represent defendants in the above-referenced action. We submit this letter to request that, pursuant to a recent email from plaintiff Joel LaMontagne, this Court dismiss this action as to all defendants in its entirety with prejudice. A copy of Mr. LaMontagne's email is enclosed herewith.

As set forth more fully in my November 30, 2010 letter to Your Honor, which is enclosed herewith without its exhibits, defendants believe this case is wholly meritless, particularly in light of this Court's prior ruling that defendants independently created *Project Runway*. Nevertheless, in order to expedite a resolution of this matter, defendants agreed to engage in limited discovery in the hopes that plaintiff would realize the case was without merit and dismiss it. After discovery was complete, on October 18, 2010, Your Honor directed the parties to confer and report to the Court no later than November 30, 2010 with either (1) a stipulation of discontinuance of this action, or (2) a proposed briefing schedule on the merits of plaintiff's claims. Unfortunately, the parties were unable to submit a report jointly because plaintiff requested an extension of time to find new counsel and defendants wanted to proceed with a motion for summary judgment. On December 2, 2010, Your Honor issued two orders, which directed the defendants to submit a motion for summary judgment and granted the

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Chief Judge Preska

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motion of Ivan Schwartz, counsel for plaintiff, to withdraw from the action upon the filing of a notice of appearance of new counsel for Mr. LaMontagne.

Since that time, defendants have been working on a motion for summary judgment in this action, which they believe would dispose of this case in its entirety. On December 27, 2010, however, we received an email from plaintiff, which is enclosed herewith, stating that he cannot find new counsel "to represent [his] case" and that he is "forced to voluntarily dismiss [his] case." For this reason, defendants respectfully request that this Court dismiss this action as to all defendants in its entirety with prejudice.

Thank you for your consideration.

Respectfully,

Eric J. Lobenfeld

Partner
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D +1.212.918.8202

cc: Ivan B. Schwartz, Esq. (by electronic mail)
James W. Badie, Esq. (by electronic mail)
Joel LaMontagne (by electronic mail)

Strom, Rachel F.

From: Joel LaMontagne [JDL115@cfl.rr.com]
Sent: Monday, December 27, 2010 8:52 PM
To: Strom, Rachel F.
Cc: Lobenfeld, Eric J.
Subject: Re: LaMontagne v. Project Runway

Rachel,

Do to the fact that I cannot find a replacement attorney to represent my case I am forced to voluntarily dismiss my case against Project Runway.

Regards,
Joel LaMontagne
3725 N. Indian River Dr.
Cocoa, FL 32926
321-403-6602